

U.S.S.N.: 10/604,566

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REMARKS

In the Official Action, claim 25 was objected to under 35 CFR 1.75 as a substantial duplicate of claim 28. In response, claim 28 has been cancelled to expedite allowance of the application as it has been pending for nearly three (3) years.

With this Amendment, new claims 41-47 are directed to a vehicle having a cab, a truck bed, and a telescoping roof rack assembly ("rack assembly"). The cab has a roof with a front portion and a rear portion. The rack assembly includes a bed rack portion and a roof rack portion. The bed rack portion is attached to the roof in a fixed position extending along the front and rear portions. The claimed bed rack portion is movable between a forward position and a rearward position. In the forward position, the bed rack portion extends along the roof. None of the cited art, whether taken individually or in any permissible combination, discloses this claimed vehicle.

In rejecting claims 21-40, the Examiner relied on the Boudah reference (U.S. Patent No. 5,143,415 - col. 2, line 50) and pointed to the stanchions 11 for disclosing the claimed leg portions attached the roof of the vehicle cab. The Examiner stated that the stanchions 11 would be capable of attaching to the roof of the cab if the front leg portions were sized differently or if the rack were placed at an angle. However, as stated in the Action, the Boudah reference does not disclose the claimed front pair of legs attached to the roof because the Boudah rack assembly is for a truck bed. In particular, the Boudah reference (col. 2, line 50) discloses that the stanchions 11 therein can be of varying height depending on the height of the rack *above the truck bed desired or the truck cab height if interference is a problem*. For this reason, the Boudah reference does not teach or suggest the claimed pair of legs attached to the roof of the vehicle.

The Examiner proposed combining the Boudah reference and the Burns reference (U.S. Patent No. 3,734,110) for teaching the claimed telescoping roof rack assembly movable to the retracted position with pillar members adjacent to legs. The claimed assembly includes pillar members and legs respectively attached to truck bed sidewalls and a vehicle roof. However, even if the proposed combination were made, the front stanchions 11 would be offset and separated from the rear stanchions 11 by one or more tubular receptors 17, even when the rack is in its shortest retracted configuration.

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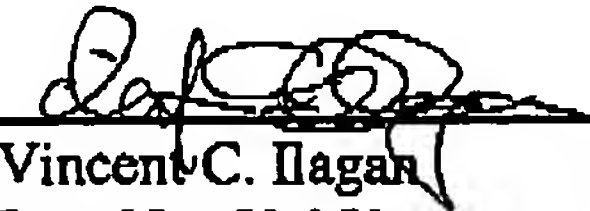
None of the cited art, whether taken individually or in any permissible combination, discloses the claimed telescoping roof rack assembly having pillar members and legs respectively attached to truck bed sidewalls and a vehicle roof, with the pillar members adjacent to the legs in the retracted position. In particular, the Burns reference (U.S. Patent No. 3,734,110) discloses a rack in a fixed position that cannot be extended or retracted. The Eck reference (U.S. Patent No. 2,608,420) discloses a bracing structure that is not attached to either the vehicle roof or truck bed sidewalls. The Aftanas reference (U.S. Patent No. 6,056,176) discloses a vehicle article carrier that is attached only to the vehicle roof and not the truck bed sidewalls. As stated above, the Boudah reference (Fig. 2; col. 2, lines 57-68) discloses a rack with movable tubular receptors 17 and inserts 18, which offset the front stanchions from the rear stanchions by a minimum distance equal to the length of one tubular receptor 17 even with the rack in the shortest configuration. Thus, the cited art cannot be relied on for disclosing the claimed assembly in the retracted position with the pillar members adjacent to the legs.

Conclusion:

In view of the foregoing, it is submitted that all of the claims remaining in the case, namely claims 21-27 and 29-47 are in proper form and patentably distinguish from the prior art. Accordingly, allowance of the claims and passage of the application to issuance are respectfully solicited.

Respectfully submitted,

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